



N. Y. SUPREME COURT.

1

COUNTY OF KINGS.

ALBERT M. KALBFLEISCH and
FRANKLIN H. KALBFLEISCH

against

CHARLES H. KALBFLEISCH.

In the Matter

of

The Receivership of WILLIAM
BROOKFIELD.

1886

2

On the annexed petition and affidavit, and on all the pleadings and proceedings herein, let the parties hereto, and let Pascal P. Pratt, as trustee under the said mortgage mentioned in said petition, and let such creditors as the receiver may see fit to serve a copy of this petition upon, show cause before me, at a Special Term of the Supreme Court, to be held at the Court House in the City of Brooklyn, on the 20th day of October, 1886, at ten o'clock in the forenoon, or as soon thereafter as counsel can be heard, why the prayer of the said petition should not be granted, and why the petitioner

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4 should not have such other and further relief as to the Court may seem just.

Let service upon the parties hereto, on or before the 16th day of October, 1886, be sufficient, and that service upon the said Pascal P. Pratt and on the said creditors may be made at any time before the day for the hearing of this motion.

Let service on the Buffalo Chemical Works be made by mailing a copy of the annexed petition and order.

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EDGAR M. CULLEN,
J. S. C.

AVERY ARCHITECTURAL AND FINE ARTS LIBRARY
GIFT OF SEYMOUR B. DURST OLD YORK LIBRARY

NEW YORK SUPREME COURT,

7

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8

To the Supreme Court of the State of New York :

The petition of William Brookfield respectfully
shows unto the Court, and alleges :

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I.—That your petitioner was duly appointed receiver of the firm of Martin Kalbfleisch's Sons, under and in pursuance of an order of this Court, made on the 26th day of July, 1886, and entered in the office of the Clerk of Kings County in the State of New York; and that thereafter your petitioner duly qualified, and has ever since been and now is acting as such receiver.

II.—That heretofore, and on or about the 3d day of September, 1886, the plaintiffs herein presented their petition to this Court, showing, among other things, that the plaintiffs, together with the defendant, constituted the firm of Martin Kalbfleisch's

10 Sons, and that your petitioner was the receiver duly appointed herein of the said firm.

That the principal part of the property of said firm consisted of shares of capital stock of three manufacturing corporations, one of which said companies was the Buffalo Chemical Works of the City of Buffalo, which said shares were then standing in the names of the members of the said firm of Martin Kalbfleisch's Sons, but in point of fact were the property of the said firm, and that your petitioner was entitled to the immediate possession thereof.

11 That the said firm had been transacting business since 1872 in the said City of Buffalo, in the sale of chemicals manufactured by the said Buffalo Chemical Works. That said works was a corporation organized under the laws of the State of New York, with a capital of three hundred thousand dollars, divided into shares of one hundred dollars each. That over two hundred and fifty thousand dollars of the capital stock was owned and held until a very short time prior to the making of said petition by the said firm, and two hundred thousand dollars thereof was then held in pledge by your petitioner for a loan of fifty-eight thousand dollars made by him, and that forty-six thousand dollars was then held in pledge by the Third National Bank of Buffalo for a loan of forty thousand dollars.

12 That your petitioner has offered to consent to the execution of certain mortgages referred to in said petition, and hereinafter referred to in so far as he was individually a creditor, provided the consent of of the Court should be given to the execution of the said mortgages.

That five thousand dollars of the capital stock of said Chemical Works was owned by Theodore V. Fowler, of the City of Buffalo, who also consented to the execution of the said mortgages.

That the plaintiff Albert M. Kalbfleisch held and owned five thousand six hundred dollars worth of the said capital stock, and that plaintiffs and de-

fendant had consented to the execution of the said 13
mortgages.

That among the creditors of Martin Kalbfleisch's Sons at Buffalo were various banks, all of which held commercial paper endorsed by the said Buffalo Chemical Works, to the amount of about ninety-five thousand dollars, and in addition thereto the said banks also held obligations of the said firm of Martin Kalbfleisch's Sons at Buffalo, to the extent of about twenty-nine thousand dollars, which said paper had gone to protest. And that the representative of the various creditors at Buffalo of Martin Kalbfleisch's Sons had made a proposition to your petitioner to effect a settlement with the said firm of Martin Kalbfleisch's Sons and the Buffalo Chemical Works, and said proposition was made to the said firm and to your petitioner as such receiver, as follows :

1st. That the creditors at Buffalo should advance to the Buffalo Chemical Works twenty-six thousand dollars to enable it to continue business.

2d. That mortgages should be given to a trustee for the creditors in Buffalo, covering the property of said Chemical Works, to secure ninety five thousand dollars on outstanding obligations of said works, twenty-nine thousand dollars obligations on Martin Kalbfleisch's Sons, and to further secure the twenty-six thousand dollars ; the said proposed 15
advance to enable said works to complete its plant then being made and to furnish the necessary capital for the continuance of the business of said works. That said improvements were necessary for the proper prosecution of the business, and were then far advanced towards completion, and that about twenty-five hundred dollars would be required to complete the same.

III.—That upon presentation of said petition to the Court, and on or about the said third day of

- 16 September, 1886, after hearing the various parties in interest, it was ordered by the Court that the receiver, your petitioner, was thereby authorized and directed to consent in writing, as holder of the said stock of the said Buffalo Chemical Works, to the mortgage proposed to be given in and by the said plan of adjustment, and to execute and deliver the necessary written assent required by the statute for that purpose. And the said order further provided that the injunction granted July 27th, 1886, be so far modified as to authorize the execution of the said mortgage, and the other necessary steps to be taken to effect the said proposed reorganization and adjustment. That said mortgage was made and
 17 recorded the 4th day of September, 1886, in the Erie County Clerk's office, at 10.20 A. M.

IV.—That the said plan of reorganization has not been carried out, and has not been completed, but has failed to be carried out and has been abandoned.

- V.—That since the making of the said order the plaintiffs and the defendant hereto, constituting the said firm of Martin Kalbfleisch's Sons, have made a general assignment for the benefit of their creditors to one Hussan Wheeler, Esq., who has notified your petitioner of his said appointment, and that therefore the said scheme of reorganization and adjustment cannot be perfected and carried out.
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Wherefore your petitioner prays the instructions of this honorable Court.

WM. BROOKFIELD,
 Receiver.

ALEXANDER & GREEN,
 Attorneys for Petitioner,
 10 Wall Street,
 New York.

City and County of New York, ss.:

19

WILLIAM BROOKFIELD, being duly sworn, says:
That he is the petitioner named in the foregoing petition; that he has read the same, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

WM. BROOKFIELD

Sworn to before me this 13th }
day of October, 1886. }

ALLAN McCULLOH,
Notary Public,
N. Y. County.

20

NEW YORK SUPREME COURT,

COUNTY OF KINGS.

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FRANKLIN H. KALBFLEISCH

against

CHARLES H. KALBFLEISCH.

21

IN THE MATTER

of

The Receivership of WILLIAM
BROOKFIELD.

City and County of New York, ss.:

CHARLES B. ALEXANDER, being duly sworn, says:
That he is one of the counsel for the receiver herein.

That a special and sufficient reason exists for a shorter notice than the regular eight days notice for

22 the reason that the receiver should know what is his duty as to every of the matters and things involved in the petition herein.

That the present condition of the action is that the summons and complaint has been served, but that there is no answer yet served, the time therefor having been extended. That this cause is not at issue, that it is not yet tried, and that the time appointed for holding the next Circuit where the action is triable, as this deponent is informed and believes, is the first Monday of November next ensuing.

23 That no application has been made to any other court or judge for the order hereby applied for. That the time to appeal from the order mentioned in the petition has not expired.

C. B. ALEXANDER.

Sworn to before me this 13th {
day of October, 1886. }

ALLAN McCULLOH,
Notary Public,
N. Y. County.

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Sir:-

Take notice of
an order of which
a copy is within.

Yours &c
Alexander & Green

Attys for Rec
Office & P. O. address
10 Waller
N. Y. City

To.

Pres. Nat. Bank
Cooperstown
N. Y.